



David B. Cohen
Mayor

CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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CONSERVATION COMMISSION

MEETING MINUTES

June 25, 2009

Beginning at 7:30 p.m.

City Hall, Rm 209

Meeting opened approximately 7:40 p.m.

MEMBERS PRESENT: I. Wallach, Chair, S. Lunin, Vice-chair, D. Dickson, D. Green, N. Richardson, and J. Hepburn

MEMBERS ABSENT: R. Matthews

MEMBERS OF THE PUBLIC: See attached sign-in sheet

Newton Centre Playground Bowen Street-RDA – Parks & Recreation requests to construct an accessible asphalt path between Bowen Street and the footpath across a tributary to Hammond Brook in riverfront, and partly in buffer to bank and flood zone. The path follows the grade and is pretty flat, so that there should be no increase in runoff rate, no need for fill (or excavation for compensatory storage). Erosion and sediment control is shown on plan.

Meeting: Kathleen Cahill, Planning and Mayor's Committee on Disabilities, and Carol Schein, Parks and Recreation were present. Maria Rose was present from engineering since DPW prepared the plans. The proposed path is to be 5 feet wide and about 330 feet long. D. Green said a neighbor was concerned that the path would cut through the middle of a grassy area where people threw frisbees. A large section of pavement will be removed, and the new path will stay out of the center of the field as much as possible and still provide a gradual slope from Bowen Street and new accessible parking spaces to the footpath across the bridge. Anne recommended a positive determination on the resource areas and a negative determination on the work. **Motion by S. Lunin to issue a positive determination on the resource area (Positive #1) and a negative determination on the work (negative #2 and #3 – part of the work is within an area subject to protection but most is not). Second by D. Dickson. Vote: All in favor. Motion passed.**

46 Heatherland RDA – Continued - request for fence and compensatory storage in flood zone. The Commission requested the applicant provide a new plan showing revised shape for compensatory storage area (now shown as long rectangle) in response to Engineering comments that shape is not practical for site. No new plan so far.

Meeting: Anne reported that owner is withdrawing the Request for Determination and will submit a Notice of Intent for the fence and past work to create an addition in flood zone.

45 Harwich Road – owner has DOA for work – wants to add deck in buffer to BVW without additional filing. There is an exemption (from filing a NOI) for such work in riverfront, but not in buffer zone to BVW.



Meeting: Owner Yuri Rozenvayn appeared with new plan to show proposed deck and concrete retaining wall in the buffer zone to bordering vegetated wetland. Work would add 8 standard piers in the outer 50 ft of the buffer zone and silt fence is shown on the plan as proposed erosion and sediment control. Previous Determination verified wetland line. This plan could be substituted administratively for prior plan. The Commission asked for additional condition that no excavated soil be deposited in the backyard and erosion and sediment control to be inspected prior to the start of work. The Commission agreed to the administrative substitution with conditions.

OOO Extension –Kessler Woods subdivision – Kessler Way and portions of Harwich Road – requests 3-yr extension –

Meeting: Tom Southworth appeared to request an extension for Order 239-474 with all lots. Michael Pierce was present and has submitted individual letters of request to extend lots 3, 4, 6 and 9 (although Lot 6 has a superceding Order of Conditions from MA DEP). Joe Porter has submitted a written request for an individual extension for lots 1 and 7 (the latter if the Commission does not issue a partial Certificate of Compliance at this meeting). Mr. Southworth summarized that there is one lot still unsold, three lots still have not started to build, and he is requesting a 3-year extension of the Order to allow time for all lots to be developed. Anne proposes that the Commission issue one extension order that lists all the lots, owners, and amended orders. **Motion by D. Green to extend the OOC #239-474 for all lots, to include lots J1, J2, J3A, J4A and lots 1-9 for three (3) years. Second by S. Lunin. Vote: All approved. Motion passed.**

Motion by S. Lunin to extend OOC for the amended order for lot 6 to the extent the Commission has that authority. Second by D. Green. Vote: All approved. Motion passed.

Management Plan for Conservation Areas – Anne – As a member of the CP staff team, discussing what open space might be left in the city for acquisition, and as the city updates its Open Space & Recreation Plan, I have realized the Conservation Areas could really benefit from an overall Management Plan, with individual sections specific to various Conservation Areas. Ideally, the CR areas should be included in the plan. I would like approval from the CC to lead an effort to develop a Management Plan. I am hoping for volunteers from the CC to work with me on this – Norm, Doug and I are meeting 6-23 to talk about it. I would like to ask Rachel if she is willing and has time to be on a committee to work on this.

Meeting: Commission members indicated they would support this effort, that it is worthwhile and long over-due. I. Wallach asked whether meetings of CC members of four (4) or more (a quorum) in their capacity as administrators of conservation areas would constitute a violation of the open meeting law. Anne will discuss with the Law Department, but thinks not.

Violations

***76 Webster Park – Habitat – utility poles in CR area –** Habitat requests to remove and put lines underground in driveway, and wants sign-off on Certificate of Occupancy – Planning personnel are suggesting we will sign off with posting of bond to cover cost of unfinished work.

Meeting: Lark Palermo, President and CEO for Habitat, was present and explained that two utility poles were installed in the Conservation Easement, which explicitly excludes utility poles. Habitat has scheduled a closing and Habitat would like the two families to be able to move into their homes after the dedication ceremony on Sunday. The request is for the Commission to authorize Anne to sign off on a temporary Certificate of Occupancy conditional on getting They were asking permission to re-enter the Conservation Easement to remove the utility poles and will put the electric lines under the driveway, instead. Planner



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noted several other issues that should be addressed, including removal of loam from on top of surface tree roots in the driveway, re-establishment of the erosion and sediment control measures prior to any work that disturbs soil, and confirmation that the gas lines are indeed in the driveway. The Commission agreed to the procedure by which Anne will sign off for a temporary Certificate of Occupancy, once she receives a scope of work including the above issues, and the bond to cover the cost of moving the utility poles and restoration of the site (primarily filling the holes) as deemed necessary by the Planner.

-Updates

***394 Boylston St.** –lawn area and shrubs growing – owner requests release from EO

Meeting: Motion by D. Green to lift Enforcement Order. Second by S. Lunin. Vote: All in favor. Motion passed.

***19 Hargrave Circle** – OOC expired and owners have promised as-built plan (from Joe Porter).

***11 Hargrave Circle** – OOC expired and owners have promised as-built plan (from Joe Porter).

Meeting: The order for work at both of the above properties expired in 2006, #11 obtained a partial Certificate of Compliance, and Planner has been trying to get owners to provide an as-built with the information on it that the Commission has required to enable issuance of a full Certificate of Compliance. Plan has been submitted and meets the requirements of the Commission. **Motion by D. Green to issue full COC to #11, #19. D. Dickson seconded.** Anne added, #21 also needs to be included. **D. Green revised motion to issue full COC to #11, #19, and #21. Second by D. Dickson. Vote: All in favor. Motion approved.**

***160 Pine St. – Gazebo -wall built; installation of drainage pipe & final re-stabilization remains. They want the CC to lift the EO.**

Meeting: When the condominium retaining wall was built, it was placed too close to Brunnen, in the city's sewer easement and on top of the sewer manhole. Because of the amount of time passed, the issue was more about the structure in the easement than the Conservation violation, but it seemed simpler to handle it under a Conservation Enforcement Order than through the Law Department, and the Condominium Association agreed. The wall has been removed and a new wall constructed out of the easement. The site has been re-stabilized and inspected and approved by Anne and Engineering. **Motion by S. Lunin to lift Enforcement Order. Second by D. Dickson. Vote: All in favor. Motion passed.**

***33 Verndale Rd.** - Report on site visit to check removal of 'debris' in flood zone – recommend no further action.

Meeting: Anne reported a follow-up site visit where she observed that one of the sheds still has a tree down on its roof, but much of the debris had been removed. She urged the owners to remove glass and plastic flowerpots that remained (carefully!). Owners indicated they would continue to work to remove the glass and pots. Anne recommends no further action, and the Commission agrees.

35 Kingswood Road – alteration of bank of Charles – restoration area planted with 20 new lowbush blueberry bushes.

Meeting: Twenty new low-bush blueberry plants have been installed and a site visit next spring will be needed to verify they are surviving.

Conservation Commission

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The following violations have no new developments. Department of Planning and Development

Houghton Garden – paint violation – Vice-Chair sent letter to B.C. students in response to last communication. Michael I. Kruse, Director

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15 Harwich Rd – Violation – Have asked DEP to assist.

1203&1211 Washington St.

93 Andrew St.

3 Fuller Ave.

Certificates of Compliance (*needs action)

Mason Rice Playground improvements request for COC - OOC has expired, and there is no money for engineering services for as-built plan or letter that they are in compliance – OOC is *not recorded*.

Meeting: Parks and Recreation has been informed that without recorded Order, work is not valid, i.e., the site is now a violation.

Kessler Woods Development: Which conditions will be required for partial COC – see packet for Newton standard and special conditions?

***Lot 7 Kessler Woods-** Have received as-built plans showing minor changes –in plants and some rocks added out of riverfront area. VTP now asking for **Extension** if COC not granted.

Meeting: Motion by D. Green to issue a partial Certificate of Compliance for Lot 7. Second by S. Lunin.

Vote: All in favor. Motion passed.

***90 Wayne Road** – Have received as-built plans.

Meeting: Motion by S. Lunin to issue a partial Certificate of Compliance for Lot 7. Second by J.

Hepburn. Vote: All in favor. Motion passed.

***11-19 Hargrove Circle** – OOC expired in 2006. Recently contacted both owners; sites need as-built showing grades, area and layout of plantings, planting list, and a final site visit & approval of plantings. Have received the as-built plan. (see above)

Meeting: see above

15 Marla Circle-mitigation plantings need to be re-planted, area documented, and MWRA easement clarified
1676 Commonwealth – needs as-built plans

Announcements & General Business:

Performance Bond/surety for Performance – DRAFT wording

Meeting: The Commission approved the wording and asked to add it to the standard conditions. It can be removed if it is not appropriate.

Open Space Plan – considerations and member to work on committee and with Conservators?

Nahanton Woods – Judy– report on meeting.

Meeting: Judy reported on organizational meeting, at which all changes to by-laws and appointment of officers was deferred to next meeting.

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May 28, 2009 Meeting Minutes for approval

Meeting: Motion by D. Dickson to approve minutes as amended. Second by S. Lunin. Vote: All approved. Motion passed.

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Outstanding issues – discussion

Non-criminal ticketing – update – Q: Does the Commission wish to ticket under the Watershed/Flood Zone only?

Other

Newton South syn-turn fields was issued a Superceding OOC by DEP – I have just received an appeal from Guive Mirfendereski.

All other agenda items deferred.

Motion to adjourn by D. Green. Second by S. Lunin. Vote: All approved. Motion passed at 9:35 p.m.

Respectfully submitted,

Anne Phelps, Sr. Environmental Planner

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